

HOUSE BILL 29

N1

0lr0632

(PRE-FILED)

By: **Delegate Braveboy**

Requested: September 23, 2009

Introduced and read first time: January 13, 2010

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Condominiums and Homeowners Associations – Priority of**
3 **Liens**

4 FOR the purpose of providing that a certain portion of a certain lien on a condominium
5 unit, including any attorney's fees or costs for filing a lien, has priority over a
6 first mortgage or deed of trust under certain circumstances; providing that
7 certain lot owners in a homeowners association are liable for certain charges
8 and assessments; allowing a homeowners association to enforce the payment of
9 certain assessments and charges by imposition of a contract lien under certain
10 circumstances; providing that a certain portion of a homeowners association
11 contract lien, including certain attorney's fees and costs for filing the lien, has
12 priority over a first mortgage or deed of trust under certain circumstances;
13 providing that certain provisions of this Act do not affect or limit the priority of
14 certain liens, mortgages, or deeds of trust; making stylistic changes; and
15 generally relating to liens on condominium units and lots in homeowners
16 associations.

17 BY repealing and reenacting, with amendments,
18 Article – Real Property
19 Section 11–110(d)
20 Annotated Code of Maryland
21 (2003 Replacement Volume and 2009 Supplement)

22 BY adding to
23 Article – Real Property
24 Section 11B–113.6
25 Annotated Code of Maryland
26 (2003 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Real Property**

4 11–110.

5 (d) (1) Payment of assessments, together with interest, late charges, if
6 any, costs of collection and reasonable attorney’s fees may be enforced by the
7 imposition of a lien on a unit in accordance with the provisions of the Maryland
8 Contract Lien Act.

9 (2) Suit for any deficiency following foreclosure may be maintained in
10 the same proceeding, and suit to recover any money judgment for unpaid assessments
11 may also be maintained in the same proceeding, without waiving the right to seek to
12 impose a lien under the Maryland Contract Lien Act.

13 (3) (I) **THIS PARAGRAPH DOES NOT LIMIT OR AFFECT THE**
14 **PRIORITY OF A MORTGAGE OR DEED OF TRUST RECORDED AGAINST A UNIT**
15 **HELD BY OR FOR THE BENEFIT OF, PURCHASED BY, ASSIGNED TO, OR SECURING**
16 **AN INDEBTEDNESS TO:**

- 17 1. **THE STATE;**
18 2. **A UNIT OF STATE GOVERNMENT; OR**
19 3. **AN INSTRUMENTALITY OF THE STATE.**

20 (II) **IN THE CASE OF A FORECLOSURE SALE OF A UNIT, THE**
21 **PORTION OF A CONTRACT LIEN CONSISTING OF NOT MORE THAN 6 MONTHS OF**
22 **UNPAID ASSESSMENTS ON THE UNIT, INCLUDING ANY ATTORNEY’S FEES OR**
23 **COSTS ASSOCIATED WITH FILING THE LIEN, SHALL HAVE PRIORITY OVER THE**
24 **CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR DEED OF TRUST RECORDED**
25 **AGAINST THE UNIT ON OR AFTER OCTOBER 1, 2010, IF THE ASSESSMENTS**
26 **INCLUDED IN THE CONTRACT LIEN ARE IN ACCORDANCE WITH THE ANNUAL**
27 **BUDGET ADOPTED BY THE COUNCIL OF UNIT OWNERS.**

28 **11B–113.6.**

29 (A) **AS PROVIDED IN THE DECLARATION, A LOT OWNER SHALL BE**
30 **LIABLE FOR ALL HOMEOWNERS ASSOCIATION ASSESSMENTS AND CHARGES**
31 **THAT COME DUE DURING THE TIME THAT THE LOT OWNER OWNS THE LOT.**

32 (B) **IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW, A**
33 **HOMEOWNERS ASSOCIATION MAY ENFORCE THE PAYMENT OF THE**

1 ASSESSMENTS AND CHARGES PROVIDED IN THE DECLARATION BY THE
2 IMPOSITION OF A LIEN ON A LOT IN ACCORDANCE WITH THE MARYLAND
3 CONTRACT LIEN ACT.

4 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IN THE CASE OF A
5 FORECLOSURE SALE OF A LOT, THE PORTION OF A CONTRACT LIEN CONSISTING
6 OF NOT MORE THAN 6 MONTHS OF UNPAID ASSESSMENTS AND CHARGES ON THE
7 LOT, INCLUDING ANY ATTORNEY'S FEES OR COSTS ASSOCIATED WITH FILING
8 THE LIEN, SHALL HAVE PRIORITY OVER THE CLAIM OF THE HOLDER OF A FIRST
9 MORTGAGE OR DEED OF TRUST RECORDED AGAINST THE LOT ON OR AFTER
10 OCTOBER 1, 2010, IF THE ASSESSMENTS AND CHARGES INCLUDED IN THE
11 CONTRACT LIEN ARE IN ACCORDANCE WITH THE ANNUAL BUDGET ADOPTED BY
12 THE HOMEOWNERS ASSOCIATION.

13 (D) THIS SECTION DOES NOT LIMIT OR AFFECT THE PRIORITY OF:

14 (1) A LIEN IMPOSED IN ACCORDANCE WITH A DECLARATION THAT
15 PROVIDES FOR A FIRST PRIORITY LIEN; OR

16 (2) A MORTGAGE OR DEED OF TRUST RECORDED AGAINST A LOT
17 HELD BY OR FOR THE BENEFIT OF, PURCHASED BY, ASSIGNED TO, OR SECURING
18 AN INDEBTEDNESS TO:

19 (I) THE STATE;

20 (II) A UNIT OF STATE GOVERNMENT; OR

21 (III) AN INSTRUMENTALITY OF THE STATE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2010.